IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 24391 of 2004

Between:

H.P.C.Contract Labour Co-Operative Society Ltd., Visakhapatnam, rep. by its M.Dhanunjaya Rao, S/o. Late Guriv Naidu, aged about 34 years Residing at Visakhapatnam.

..... PETITIONER

AND

1 The Joint Registrar/Dt. Co-Operative Officer, Visakhapatnam.
2 The Dy. Registrar of Co-Operative Societies, Visakhapatnam, Visakhapatnam District.
3 Sri P.Bhaskara Rao, Dt.Co-Operative Audit Officer, Visakhapatnam.

4 S. Paidi Babu, S/o. S. Appalakonda, aged about 37 years. Semiskilled worker,

O/o. HPCL, Visakhapatnam.

5 N. Srinivasa Rao, S/o. N. Appa Rao, aged about 36 years, semiskilled worker, Lift Maintenance Mechanic, O/o.HPCL, Visakhapatnam.

(Respondents 4 and 5 are impleaded as Party respondents as per Court order dated 13.4.2005 in WPMP No. 4714 of 2005).

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a Writ of Certiorari calling for the records relating to in R.C.No.303/2000/E/04 dt.22.12.2004 of the Deputy Registrar of Co-Operative Societies, Visakhapatnam the 2nd respondent and declare the same as illegal, arbitrary, without jurisdiction in violation of principles of natural justice and contrary to the provisions of A.P.C.S.Act, 7 of 1964 and quash the same and pass such other order or orders.

Counsel for the Petitioner:MR.RAMA RAO MAVIDI

Counsel for the Respondents1 to 3: GP FOR COOPERATION

Counsel for the Respondents 4 and 5: Mr. K. Satyanarayana Murthy

The Court made the following Oral Order:

Petitioner society questions the impugned order dated 22.12.2004 passed by the Deputy Registrar of Cooperative Societies, Visakhaptnam, the 2nd respondent herein, which order was, in fact, passed by the 3rd respondent herein who was impleaded by name. The impugned order was passed under Section 32(7)(a) of the A.P. Co-operative Societies Act, 1966(for short 'the Act') appointing three persons as Committee of Persons In-charge of the petitioner-society on the ground that petitioner-society did not conduct any general body meeting. As the managing Committee, ceased to exist under Section 32(1) of the Act, it has become inevitable to appoint another Officer as person-in-charge of the petitioner society so as to enable the enquiry to be conducted in a smooth way. The 1st respondent appointed Sri P. Bhaskara Rao, District Cooperative Officer, Visakhapatnam to conduct enquiry under Section 51 of the Act into the constitution, working and affairs of the petitioner society. The said Bhaskar Rao, who is the District Cooperative Officer had conducted enquiry and submitted his report on 4.12.2004 to the Joint Registrar of the Cooperative Societies and the Joint Registrar in turn directed the District Cooperative Officer, Visakhapatnam to appoint person-in-charge under Section 32 (7)(a) of the Act. Accordingly, the Deputy Registrar, Cooperative Societies passed the impugned order. But, it is pertinent to note that the Deputy Registrar of Cooperative Societies who passed the impugned order himself made an enquiry and submitted a report and, therefore, it is clear that P. Bhaskar Rao who made an enquiry as District Cooperative Officer passed the impugned order as Deputy Registrar of Cooperative Societies.

No doubt, the Joint Registrar has taken a decision vide proceedings dated 18.12.2004 to appoint person-in-charge under Section 32 (7)(a) of the Act. But the Joint Registrar has not passed order appointing the officials as Committee of Persons-In-charge. But, the 3rd respondent, in the capacity of Deputy Registrar has passed the impugned order and, therefore, the impugned order is set aside on the sole ground that the 3rd respondent who conducted enquiry into the matter passed the impugned order while acting as the Deputy Registrar of Cooperative Societies.

The writ petition is accordingly allowed leaving it open to the 1st respondent to pass appropriate orders in the matter in accordance with law. No costs.

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13th April, 2005

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The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on this Wednesday, the thirteenth day of April, Two thousand and five.

To

1 The Joint Registrar/Dt. Co-Operative Officer, Visakhapatnam.
2 The Dy. Registrar of Co-Operative Societies, Visakhapatnam, Visakhapatnam District.
3 Sri P.Bhaskara Rao, Dt.Co-Operative Audit Officer, Visakhapatnam.

4 Two C.Cs. to the G. P. for Cooperation, High Court Buildings, Hyderabad. (OUT)

5 Two C.D. copies

THE HON'BLE MR JUSTICE V.ESWARAIAH

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